

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 678

Introduced by Assembly Member Pan
(Principal coauthor: Senator Steinberg)

February 17, 2011

An act to ~~amend Section 14132.72 of~~ *add Section 14105.94 to the* Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as amended, Pan. Medi-Cal: ~~telemedicine: supplemental provider reimbursement.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. ~~Existing law recognizes telemedicine as a legitimate means by which an individual may receive medical services under the Medi-Cal program. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides for a schedule of benefits under the Medi-Cal program, which includes medical transportation, and authorizes the department to prescribe policies and regulations as necessary to carry out the Medi-Cal program, including setting rates for payment of services.~~

This bill would provide that an eligible provider, as described, may receive supplemental Medi-Cal reimbursement, in addition to the rate of payment that the provider would otherwise receive, for Medi-Cal ground emergency medical transportation services and that the supplemental reimbursement shall be equal to the amount of federal

financial participation the department receives as a result of claims submitted for expenditures for services, as specified. This bill would require the department to promptly seek any necessary federal approvals for the implementation of these provisions, including obtaining approval from the federal Centers for Medicare and Medicaid Services for the specified payment methodology to be used to distribute the supplemental reimbursement.

~~This bill would make a technical, nonsubstantive change.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14105.94 is added to the Welfare and*
2 *Institutions Code, to read:*
3 *14105.94. (a) An eligible provider, as described in subdivision*
4 *(b), may, in addition to the rate of payment that the provider would*
5 *otherwise receive for Medi-Cal ground emergency medical*
6 *transportation services, receive supplemental Medi-Cal*
7 *reimbursement to the extent provided in this section.*
8 *(b) A provider shall be eligible for supplemental reimbursement*
9 *only if the provider has all of the following characteristics*
10 *continuously during a state fiscal year:*
11 *(1) Provides ground emergency medical transportation services*
12 *to Medi-Cal beneficiaries.*
13 *(2) Is a provider that is enrolled as a Medi-Cal provider for the*
14 *period being claimed.*
15 *(3) Is owned or operated by the state, a city, county, city and*
16 *county, fire protection district organized pursuant to Part 2.7*
17 *(commencing with Section 13800) of Division 12 of the Health*
18 *and Safety Code, special district organized pursuant to Chapter*
19 *1 (commencing with Section 58000) of Division 1 of Title 6 of the*
20 *Government Code, community services district organized pursuant*
21 *to Part 1 (commencing with Section 61000) of Division 3 of Title*
22 *6 of the Government Code, health care district organized pursuant*
23 *to Chapter 1 (commencing with Section 32000) of Division 23 of*
24 *the Health and Safety Code, or a federally recognized Indian tribe.*
25 *(c) An eligible provider's supplemental reimbursement pursuant*
26 *to this section shall be calculated and paid as follows:*

(1) The supplemental reimbursement to an eligible provider, as described in subdivision (b), shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (f).

(2) In no instance shall the amount certified pursuant to paragraph (1) of subdivision (e), when combined with the amount received from all other sources of reimbursement from the Medi-Cal program, exceed 100 percent of actual costs, as determined pursuant to the Medi-Cal State Plan, for ground emergency medical transportation services.

(3) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on ground emergency medical transportation services provided to Medi-Cal beneficiaries by eligible providers on a per-transport basis or other federally permissible basis. The department shall obtain approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and may not make any payment pursuant to this section prior to obtaining that approval.

(d) (1) It is the Legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the General Fund. An eligible provider, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department for the costs of administering this section.

(2) The nonfederal share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in paragraph (3) of subdivision (b) and certified to the state as provided in subdivision (e).

(e) If an applicable governmental entity elects to seek supplemental reimbursement pursuant to this section on behalf of an eligible provider owned or operated by the entity, as described in paragraph (3) of subdivision (b), the governmental entity shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the

1 *claimed expenditures for the ground emergency medical*
2 *transportation services are eligible for federal financial*
3 *participation.*

4 *(2) Provide evidence supporting the certification as specified*
5 *by the department.*

6 *(3) Submit data as specified by the department to determine the*
7 *appropriate amounts to claim as expenditures qualifying for federal*
8 *financial participation.*

9 *(4) Keep, maintain, and have readily retrievable, any records*
10 *specified by the department to fully disclose reimbursement*
11 *amounts to which the eligible provider is entitled, and any other*
12 *records required by the federal Centers for Medicare and Medicaid*
13 *Services.*

14 *(f) (1) The department shall promptly seek any necessary federal*
15 *approvals for the implementation of this section. The department*
16 *may limit the program to those costs that are allowable*
17 *expenditures under Title XIX of the federal Social Security Act (42*
18 *U.S.C. 1396 et seq.). If federal approval is not obtained for*
19 *implementation of this section, this section shall not be*
20 *implemented.*

21 *(2) The department shall submit claims for federal financial*
22 *participation for the expenditures for the services described in*
23 *subdivision (e) that are allowable expenditures under federal law.*

24 *(3) The department shall, on an annual basis, submit any*
25 *necessary materials to the federal government to provide*
26 *assurances that claims for federal financial participation will*
27 *include only those expenditures that are allowable under federal*
28 *law.*

29 *(g) This section shall become inoperative in the event, and on*
30 *the date, of a final judicial determination by any court of appellate*
31 *jurisdiction or a final determination by the administrator of the*
32 *federal Centers for Medicare and Medicaid Services that the*
33 *supplemental reimbursement provided in this section must be made*
34 *to any provider not described in this section.*

35 *(h) Notwithstanding Chapter 3.5 (commencing with Section*
36 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
37 *the department may implement and administer this section by*
38 *means of provider bulletins, or similar instructions, without taking*
39 *regulatory action.*

1 SECTION 1. ~~Section 14132.72 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~

3 ~~14132.72. (a) It is the intent of the Legislature to recognize~~
4 ~~the practice of telemedicine as a legitimate means by which an~~
5 ~~individual may receive medical services from a health care~~
6 ~~provider, without person-to-person contact with the provider.~~

7 ~~(b) For the purposes of this section, "telemedicine" and~~
8 ~~"interactive" are defined as those terms are defined in subdivision~~
9 ~~(a) of Section 2290.5 of the Business and Professions Code.~~

10 ~~(c) (1) Commencing July 1, 1997, face-to-face contact between~~
11 ~~a health care provider and a patient shall not be required under the~~
12 ~~Medi-Cal program for services appropriately provided through~~
13 ~~telemedicine, subject to reimbursement policies developed by the~~
14 ~~Medi-Cal program to compensate licensed health care providers~~
15 ~~who provide health care services, that are otherwise covered by~~
16 ~~the Medi-Cal program, through telemedicine. The audio and visual~~
17 ~~telemedicine system used shall, at a minimum, have the capability~~
18 ~~of meeting the procedural definition of the Current Procedural~~
19 ~~Terminology Fourth Edition (CPT-4) codes which represent the~~
20 ~~service provided through telemedicine. The telecommunications~~
21 ~~equipment shall be of a level of quality to adequately complete all~~
22 ~~necessary components to document the level of service for the~~
23 ~~CPT-4 code billed. If a peripheral diagnostic scope is required to~~
24 ~~assess the patient, it shall provide adequate resolution or audio~~
25 ~~quality for decisionmaking.~~

26 ~~(2) The department shall report to the appropriate committees~~
27 ~~of the Legislature, by January 1, 2000, on the application of~~
28 ~~telemedicine to provide home health care; emergency care; critical~~
29 ~~and intensive care, including neonatal care; psychiatric evaluation;~~
30 ~~psychotherapy; and medical management as potential Medi-Cal~~
31 ~~benefits.~~

32 ~~(d) The Medi-Cal program shall not be required to pay for~~
33 ~~consultation provided by the health care provider by telephone or~~
34 ~~facsimile machines.~~

35 ~~(e) The Medi-Cal program shall pursue private or federal~~
36 ~~funding to conduct an evaluation of the cost-effectiveness and~~
37 ~~quality of health care provided through telemedicine by those~~

- 1 ~~providers who are reimbursed for telemedicine services by the~~
- 2 ~~program.~~

O